



# State of New Hampshire

## PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Berlin School Custodians, AFSCME  
Local #1444.

v.

Berlin School Board  
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Case No. A-0431:2

Decision No. 84-03

### APPEARANCES

PELRB: Robert E. Craig, Chairman, presiding. Members Robert Steele and Russell Hilliard. Also present, Evelyn C. LeBrun, Executive Director.

AFSCME: Edward Edwards, Ronald Plaisance, George Coulombé, Dewey Lavigne, Ronald Devoid

SCHOOL BOARD: Bradley F. Kidder, Esq., Alan Perrin, Supt., William Kingston, Mgt. Consultant

### BACKGROUND

The American Federation of State, County and Municipal Employees, Local #1444 (Berlin Custodians) filed an unfair labor practice charge against the Berlin School District and its Chairman, Carl L. Nolin on January 12, 1983.

The complaint alleged violation of RSA 273-A:5 (d) (g) (h) (i) and briefly stated charges that inter alia Mr. Ronald Plaisance, a custodian employee, was unfairly discharged because he was pursuing a grievance which he had the right to do under the contract.

AFSCME, Local #1444 (Union) is the exclusive bargaining representative for the custodial employees of the Berlin Schools and was operating under an agreement with the School Board (Board) dated September 1, 1980 to August 31, 1982 (new contract signed August 30, 1983). AFSCME charged the following sequence of events occurred and violated RSA 273-A:5: On August 31, 1982 Mr. Ronald Plaisance filed a grievance concerning his status of employment. Mr. Plaisance had been laid-off and then re-hired as a temporary employee. Mr. Plaisance's grievance was presented at a pre-arranged meeting with Alan Perrin, Ph. D., Superintendent of Schools. At that meeting Dr. Perrin notified Mr. Plaisance that he was discharged, as of the end of the shift that day, from his temporary position. The Union claims Mr. Plaisance was discharged because he had filed a grievance. Subsequently, Mr. Plaisance was notified (on September 28, 1982) by a letter that his termination was the result of his conduct and statements at the August 31, 1982 grievance hearing.

In its answer, the Berlin School Board denied the allegations of unfair labor practice and pointed out that Mr. Plaisance was laid-off effective August 27, 1982, because they were closing a school building and Mr. Plaisance was low man in seniority. His discharge, the Board reports, is subject to grievance, has been grieved and will be the subject of an arbitration which is final and binding under the contract. The Board further pointed out that Mr. Plaisance's dismissal of August 31st (from the temporary job) was for cause (his actions at meeting) and the procedures covering this dismissal (under clause 6.6 of the contract) have been followed scrupulously and are not subject to binding and arbitration procedure.

A hearing was held at the PELRB in Concord on November 17, 1983 with all parties represented.

#### FINDINGS OF FACT AND RULINGS OF LAW

At hearing, witnesses testified to the substance of the August 31, 1982 grievance meeting including the statements by Mr. Plaisance about "blowing the doors off" and the statements by Mr. Perrin, about some "court order" restraining Mr. Plaisance. Mr. Plaisance testified that Mr. Perrin first asked if he, Plaisance, had filed a grievance and when told he had, Perrin told Plaisance his services were no longer needed. Perrin also testified that Plaisance later returned to the office and said that... "even if he got two years in jail he'd get even".

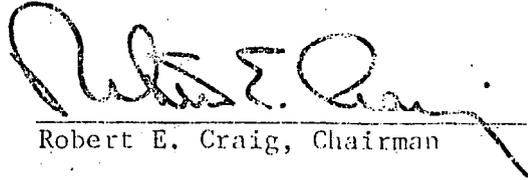
Mr. Perrin testified to his knowledge of the background of Plaisance's problems with one of the teachers in the school. Perrin also testified that the School Board had cut the budget by \$850,000 and in addition one other custodian was out sick (heart) and he was trying to be sure the custodian could vest his pension and so the decision to lay-off Plaisance from permanent position but hire him as temporary placement for the sick custodian. Mr. Perrin further testified that after Mr. Plaisance's behavior of August 31, 1982 he (Perrin) was afraid of Plaisance's behavior in future and this was why he relieved Plaisance of his temporary job and also informed the teacher of what had taken place. Mr. Perrin also testified that he investigated Plaisance's background subsequently and decided to dismiss Plaisance as too threatening to continue (and did so on September 28th).

Testimony produced considerable confusion as to what was known by Mr. Perrin, the August 31, 1982, meeting of Mr. Plaisance's background but it is clear that Plaisance was told his services were no longer needed, soon after it was re-established that the purpose of the meeting was the grievance filed by Plaisance. Subsequent investigation by Perrin appears to have corroborated his view that Plaisance should be fired for "cause", and was on September 28th, but this did not appear to be clear on August 31, 1982, at the time of the verbal dismissal.

The PELRB declines to review the entire case instant from the standpoint of a "workable grievance procedure" since it finds no prima facie reason to do so since the contract has been negotiated and re-negotiated and the language is clear.

DECISION AND ORDER

The PELRB finds the Berlin School Board and its agent, Superintendent Perrin, guilty of breach of RSA 273-A:5 I (d) and orders that Mr. Plaisance be made whole to the period of proper termination, in this case, September 28, 1982.

  
Robert E. Craig, Chairman

Signed this 12th day of January, 1984.

By unanimous vote. Chairman Robert E. Craig presiding. Members Robert Steele and Russell Hilliard present and voting. Also present, Evelyn C. LeBrun, Executive Director.